

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be reimbursement for prescription medication.
- b. The request was received on July 29, 2002.

II. EXHIBITS

1. Requestor, Exhibit 1:
 - a. TWCC 60 and Letter Requesting Dispute Resolution
 - b. TWCC-66a
 - c. EOB
 - d. Medical Records
 - e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit 2:
 - a. TWCC 60 and/or Response to a Request for Dispute Resolution
3. Per Rule 133.307 (g) (3), the Division forwarded a copy of the requestor's 14 day response to the insurance carrier on August 26, 2002. Per Rule 133.307 (g) (4) or (5), the carrier representative, signed for the copy on August 26, 2002. The response from the insurance carrier was received in the Division on September 20, 2002. Based on 133.307 (i) the insurance carrier's response is untimely.
4. Notice of Medical Dispute is reflected as Exhibit #3 of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor: The requestor states in the correspondence dated August 12, 2002 that...

“...The disputed issue is that the Carrier has only paid \$52.19 stating reduced to estimated usual and customary charge based on available research data... The Carrier denied the request for payment stating we adjusted the reimbursement to what our data indicates is your usual and customary charge, which is the maximum allowable reimbursement under Commission Rule 134.502. They based that adjustment on data

provided to them by a third party. In this case the patient received 60 Skelaxin the AWP is $58.26 \times 1.09 + \$4.00 = 67.50$. Therefore, reimbursement should be \$67.50 not the \$52.19 the Carrier paid...”

2. Respondent: The response was not timely and consequently not eligible for review.

IV. FINDINGS

- Based on Commission Rule 133.307(d) (1) (2), the only date of service eligible for review is April 15, 2002.
- The following table identifies the disputed services and Medical Review Division's rationale:

DOS	Prescription	BILLED	PAID	EOB Denial Code	Brand Name AWP/Unit x #/Units x \$1.09 + \$4.00 = MARS	REFERENCE	RATIONALE:
04/15/02	Skelaxin 400 mg. – 60	\$68.11	\$52.19	F	Price Alert for 4/15/02 $\$97.14 \div 100 = \$97 \times 60 = \$58.20 \times \$1.09 = \$63.43 + \$4.00 = \$67.43$ $\$67.43 - \$52.19 = \$15.24$	TWCC Rule 134.503(a)(1) & (2)(B); (e) Section 408.027(d) Rule 133.304	Per Rule 134.503(a)(1) & (2)(B), the maximum allowable reimbursement for prescription drugs shall be the lesser of the provider's usual and customary charge for the same or similar service; or the fees established by formulas based on the average wholesale price determined by utilizing a nationally recognized pharmaceutical reimbursement system. Per Section 408.027(d) states that if an insurance carrier disputes the amount of payment the carrier shall send to the commission, the health care provider and the injured employee a report that sufficiently explains the reasons for the reduction. The respondent did not submit a timely response; therefore, a fee computation per the referenced rule for fair and reasonable fees shall be utilized. Reimbursement in the amount of \$15.24 is recommended.
Totals		\$68.11	\$52.19				The Requestor is entitled to reimbursement in the amount of \$15.24

VI. ORDER

Pursuant to Sections 402.042, 413.016, 413.031, and 413.019 the Medical Review Division hereby ORDERS the Respondent to remit \$15.24 plus all accrued interest due at the time of payment to the Requestor within 20 days receipt of this Order.

This Order is hereby issued this 1st day of November 2002.

Medical Dispute Resolution Officer
Medical Review Division

MF/mf